

AMENDED IN ASSEMBLY SEPTEMBER 5, 2003

SENATE BILL

No. 84

Introduced by Senator ~~Scott~~ Vasconcellos
(Principal coauthor: Assembly Member Bermudez.)

January 23, 2003

~~An act to repeal Section 44306 of the Education Code, relating to teacher credentialing.~~ *An act to add Section 1210.3 to the Penal Code, relating to drug treatment, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 84, as amended, ~~Scott~~ Vasconcellos. ~~Pre-Internship Teacher Program; reports~~ *Drug treatment: probationers.*

Existing law, added by initiative statute, generally provides that, effective July 1, 2001, a person convicted of a nonviolent drug possession offense shall receive probation with completion of a drug treatment program as a condition of that probation, in lieu of incarceration; if a person who receives probation violates a drug-related condition of that probation, the person's probation may be revoked if the person is a danger to the safety of others or is unamenable to drug treatment. A recent court of appeal case has held that denial of the initiative's treatment in lieu of incarceration for probationers violates equal protection in light of the applicability of the treatment program to parolees.

This bill would, in addition, provide that any defendant on probation for a crime committed prior to, on, or after July 1, 2001, who violates that probation by virtue of specified drug-related conduct shall participate in and complete an appropriate drug treatment program in lieu of incarceration, except as specified, unless the court finds by a

preponderance of the evidence that the defendant poses a danger to the safety of others. By expanding the class of persons eligible for probation and drug treatment, this bill would impose a state-mandated local program on local government.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would add provisions that supplement provisions of the above-mentioned initiative, and would thereby amend that initiative statute. In accordance with the requirements of that initiative statute, the bill would require a $\frac{2}{3}$ vote for enactment by the Legislature.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law establishes the Pre-Internship Teaching Program, which authorizes the Commission on Teacher Credentialing to issue a preintern teaching certificate instead of an emergency multiple subject permit to an individual employed by a school district who meets specified minimum requirements set by the commission. Existing law required the commission to submit an interim report regarding the program to the Legislature and the Legislative Analyst no later than October 1, 2000, and a final report regarding the program no later than October 1, 2001.~~

~~This bill would repeal those obsolete reporting requirements.~~

~~Vote: majority $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.~~

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 44306 of the Education Code is~~
- 2 ~~repealed.~~
- 3 *SECTION 1. Section 1210.3 is added to the Penal Code, to*
- 4 *read:*

1 1210.3. (a) Except as provided in subdivision (b), any
2 defendant on probation for any crime committed prior to, on, or
3 after July 1, 2001, who violates that probation either by
4 committing a nonviolent drug possession offense, or a
5 misdemeanor for simple possession or use of drugs or drug
6 paraphernalia, being present where drugs are used, or failure to
7 register as a drug offender, or any activity similar to those listed
8 in paragraph (1) of subdivision (d) of Section 1210, or by violating
9 a drug-related condition of probation, shall participate in and
10 complete an appropriate drug treatment program, in compliance
11 with Section 1210.1 and in lieu of incarceration, unless the court
12 finds by a preponderance of the evidence that the defendant poses
13 a danger to the safety of others.

14 (b) Subdivision (a) does not apply to:

15 (1) Any probationer who has been convicted of one or more
16 serious or violent felonies in violation of subdivision (c) of Section
17 667.5 or Section 1192.7.

18 (2) Any probationer who, while on probation, commits one or
19 more nonviolent drug possession offenses or violates a
20 drug-related condition of probation, and is found to have
21 concurrently committed a misdemeanor not related to the use of
22 drugs or any felony other than a nonviolent drug possession
23 offense.

24 (3) Any probationer who refuses drug treatment as a condition
25 of probation.

26 SEC. 2. Notwithstanding Section 17610 of the Government
27 Code, if the Commission on State Mandates determines that this
28 act contains costs mandated by the state, reimbursement to local
29 agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code. If the statewide cost of the
32 claim for reimbursement does not exceed one million dollars
33 (\$1,000,000), reimbursement shall be made from the State
34 Mandates Claims Fund.

35 SEC. 3. This act is an urgency statute necessary for the
36 immediate preservation of the public peace, health, or safety
37 within the meaning of Article IV of the Constitution and shall go
38 into immediate effect. The facts constituting the necessity are:

39 To achieve as soon as possible the benefits for defendants on
40 probation in particular and society in general resulting from the

- 1 *use of drug treatment in lieu of incarceration, it is necessary that*
- 2 *this act go into immediate effect.*

O

